

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

FIESTA MART, LLC,

Plaintiff,

vs.

WILLIS OF ILLINOIS, INC, *et. al.*,

Defendants.

**Civil Action No. 4:20-CV-03484**

**DECLARATION OF KYRA A. SMERKANICH**

Kyra A. Smerkanich, under oath, deposes and states as follows:

1. I am an attorney with the law firm Saul Ewing Arnstein & Lehr LLP. I represent Defendants Willis Towers Watson Midwest, Inc. (f/k/a/ Willis of Illinois, Inc.) and Willis Towers Watson US, LLC (“Willis”) in this case. I am submitting this Declaration in connection with Willis’s Motion for Summary Judgment. This declaration is made based on my personal knowledge.

2. Attached as Exhibit 1 are relevant pages from the transcript of the June 28, 2022 deposition of Jeffrey Roberts.

3. Attached as Exhibit 2 is an email from Megan Syzdlowski to Wayne Peterson, cc Jeffrey Roberts and Peter Galla, dated April 22, 2016, and attached Standard Terms and Conditions for U.S. Property & Casualty Retail Accounts, Bates-labelled WTW\_00005539 – WTW\_00005550.

4. Attached as Exhibit 3 is an email from Peter Galla to Drew Scielzo, cc Bruce Batzer, Jeffrey Roberts, Meagan Syzdlowski, and Josphe DiFazio, dated May 26, 2016, and attached

Standard Terms and Conditions for U.S. Property & Casualty Retail, Bates-labelled WTW\_00004476 - WTW\_00004477 and WTW\_00004635 - WTW\_00004645.

5. Attached as Exhibit 4 is an Excel spreadsheet prepared by Willis for ACON regarding the Property Portfolio Program, produced in native format and Bates-labelled WTW\_00003126.

6. Attached as Exhibit 5 is an email from Peter Galla to Jeffrey Roberts and Drew Scielzo, cc Mark Rusas and Bruce Batzer, dated April 19, 2016, and attached spreadsheet (produced in native format), Bates-labelled WTW\_00005161 - WTW\_00005162.

7. Attached as Exhibit 6 is the Westport Insurance Company Policy, Policy No. NAP 200121401, with a policy period of June 1, 2017 through June 1, 2018, that was marked as Exhibit 2 at the deposition of Drew Scielzo.

8. Attached as Exhibit 7 is an email from Peter Galla to Wayne Peterson, cc Meagan Szydlowski and Jeffrey Roberts, dated May 19, 2016 and attached spreadsheet (produced in native format), Bates-labelled WTW\_00003125 - WTW\_00003126.

9. Attached as Exhibit 8 is an email from Drew Scielzo to Jeffrey Roberts, cc Mark Rusas, Peter Galla, and Bruce Batzer, dated April 20, 2016 and Bates-labelled WTW\_00005173 - WTW\_00005178.

10. Attached as Exhibit 9 are relevant pages from the transcript of the May 11, 2022 deposition of Henry Andrew (“Drew”) Scielzo.

11. Exhibit 10 is a corporate organizational chart, Bates-labelled FIESTA\_MART0030433, that was marked as Exhibit 5 at the deposition of Drew Scielzo. This document was produced by Fiesta in discovery and marked as “Confidential.” Prior to filing this Declaration, Willis sought Fiesta’s consent to file this document publicly. Consent was denied. For this reason, Willis is submitting a copy of this document to the Court for *in camera* review.

12. Attached as Exhibit 11 is the August 29, 2017 Notice of Loss submitted by Willis, Bates-labelled WTW\_00016557 - WTW\_00016559.

13. Attached as Exhibit 12 is an email from Blaine Conant to Peter Galla and Henry Daar, cc tom Tio and Nichole Wilson, dated September 14, 2017, Bates-labelled WTW\_00017433 - WTW\_00017435.

14. Attached as Exhibit 13 are relevant pages from the transcript of the June 14, 2022 deposition of Henry Daar.

15. Attached as Exhibit 14 is an email from Blaine Conant to Boris Loncarevic dated September 20, 2017, Bates-labelled WTW\_00012961.

16. Attached as Exhibit 15 are relevant pages from the transcript of the June 9, 2022 deposition of Jack Hook.

17. Attached as Exhibit 16 is a spreadsheet that was marked as Exhibit 7 at the deposition of Drew Scielzo. Also attached as part of Exhibit 16 is Deposition Exhibit 7B, which is a document created by counsel for the Insurers, that consists of the cut-off text in Exhibit 7. This document was produced by ACON in discovery and marked as “Confidential.” Prior to filing this Declaration, Willis sought ACON’s consent to file this document publicly. Consent was denied. For this reason, Willis is submitting a copy of this document to the Court for *in camera* review.

18. Exhibit 17 are relevant excerpts from the Membership Interest Purchase Agreement that was marked as Exhibit 6 at the deposition Drew Scielzo. Given the commercially sensitive and confidential nature of this document, Willis is submitting a copy of this document to the Court for *in camera* review.

19. Attached as Exhibit 18 is an email from Henry Daar to Blaine Conant dated August 23, 2018 that was marked as Exhibit 52 at the deposition of Boris Loncarevic.

20. Attached as Exhibit 19 is an email from Blaine Conant to Drew Scielzo, cc Jeffrey Roberts, dated August 27, 2018 and Bates-labelled WTW\_00012405.

21. Attached as Exhibit 20 is an email from Drew Scielzo to Henry Daar and Jeffrey Roberts dated November 28, 2018 that was marked as Exhibit 143 at the deposition of Henry Daar.

22. Attached as Exhibit 21 is an email from Blaine Conant to Jeffrey Roberts, dated August 28, 2018, and Bates-labelled WTW\_00012419 - WTW\_00012422.

23. Attached as Exhibit 22 is an email from Jeffrey Roberts to Drew Scielzo dated August 31, 2018 and Bates-labelled WTW\_00012459.

24. Attached as Exhibit 23 is an email from Drew Scielzo to Boris Loncarevic, cc Blaine Conant and Jeffrey Roberts, dated September 4, 2018 that was marked as Exhibit 11 at the deposition of Drew Scielzo.

25. Attached as Exhibit 24 is an email from Todd Richards to Suhail Pervez Ansari dated September 7, 2018 that was marked as Exhibit 158 at the deposition of William ("Bill") Ashton.

26. Attached as Exhibit 25 is an email from Jeffrey Roberts to Jack Hook, cc Nancy Collins and Blaine Conant, dated September 4, 2018 that was marked as Exhibit 90 at the deposition of Jack Hook.

27. Attached as Exhibit 26 is an email from Jeffrey Roberts to Henry Daar, Mark Rusas, Bruce Batzer, Nancy Collins, and Peter Galla dated September 11, 2018 that was marked as Exhibit 91 at the deposition of Jack Hook.

28. Attached as Exhibit 27 is a letter from Jack Hook to Jeffrey Roberts dated September 11, 2018 and Bates-labelled WTW\_00002905 - WTW\_00002907. A copy of this letter was marked as Exhibit 57 at the deposition of Boris Loncarevic.

29. Attached as Exhibit 28 is an email from Boris Loncarevic to Drew Scielzo and Jeffrey Roberts, cc Blaine Conant, dated September 18, 2018 that was marked as Exhibit 64 at the deposition of Boris Loncarevic.

30. Attached as Exhibit 29 is an email from Jack Hook to Jeffrey Roberts, cc Blaine Conant and Nancy Collins, dated September 18, 2018 that was marked as Exhibit 92 at the deposition of Jack Hook.

31. Attached as Exhibit 30 is an email from Jack Hook to Jeffrey Roberts, cc Blaine Conant and Nancy Collins, dated September 25, 2018, Bates-labelled WTW\_00012629 - WTW\_00012630.

32. Attached as Exhibit 31 is an email from Jack Hook to Blaine Conant, cc Nancy Collins, dated October 5, 2018 and Bates-labelled WTW\_00015341 - WTW\_00015342.

33. Attached as Exhibit 32 is an email from Jack Hook to Blaine Conant, cc Henry Daar, Kelly Smits, Nancy Collins, and Joe Angulo, dated October 17, 2018 and Bates-labelled WTW\_00001523 - WTW\_00001526.

34. Attached as Exhibit 33 is an email from Jack Hook to Nancy Collins and Blaine Conant, cc Henry Daar, Kelly Smits, and Joe Angulo, dated October 19, 2018 and Bates-labelled WTW\_00002060 - WTW\_00002064.

35. Attached as Exhibit 34 is an email from Jack Hook to Blaine Conant, cc Henry Daar, Kelly Smits, Nancy Collins, and Joe Angulo, dated October 25, 2018 and Bates-labelled WTW\_00001484 - WTW\_00001485.

36. Attached as Exhibit 35 is an email from Jack Hook to Blaine Conant, cc Henry Daar, Kelly Smits, Nancy Collins, and Joe Angulo, dated November 11, 2019 and Bates-labelled WTW\_00000821 - WTW\_00000823.

37. Attached as Exhibit 36 is an email from Jack Hook to Nancy Collins, cc Blaine Conant, dated October 4, 2018 and Bates-labelled WTW\_00015336 - WTW\_00015337.

38. Attached as Exhibit 37 is an email from Blaine Conant to Jack Hook, cc Henry Daar, Kelly Smits and Janine Collins, dated October 5, 2018 and Bates-labelled WTW\_00019594 - WTW\_00019597.

39. Attached as Exhibit 38 is an email from Blaine Conant to Jack Hook, cc Henry Daar, Kelly Smits and Janine Collins, dated October 5, 2018 and Bates-labelled WTW\_00000797- WTW\_00000798.

40. Attached as Exhibit 39 is an email from Blaine Conant to Jack Hook, cc Henry Daar, Kelly Smits, and Nancy Collins, dated October 8, 2018 and Bates-labelled WTW\_00002065 - WTW\_00002066.

41. Attached as Exhibit 40 is an email from Nancy Collins to Jack Hook, cc Blaine Conant, dated October 8, 2018 and Bates-labelled WTW\_00016141 - WTW\_00016143.

42. Attached as Exhibit 41 is an email from Alex Lok to Jack Hook and Blaine Conant, cc Henry Daar, Kelly Smits, Joe Angulo, and Nancy Collins, dated October 18, 2018 and Bates-labelled WTW\_00001531 - WTW\_00001534.

43. Attached as Exhibit 42 is an email from Nancy Collins to Jack Hook, cc Henry Daar, Kelly Smits, Joe Angulo, and Blaine Conant, dated October 25, 2018 and Bates-labelled WTW\_00001486 - WTW\_00001488.

44. Attached as Exhibit 43 is an email from Henry Daar to Jack Hook, cc Nancy Collins, Kelly Smits, Joe Angulo, and Jeff Roberts, dated November 26, 2019 and Bates-labelled WTW\_00002074 - WTW\_00002077.

45. Attached as Exhibit 44 is a letter from Joe Angulo to Kenneth Brotman dated October 4, 2018 and Bates-labelled FIESTA\_MART0000108. This document was produced by Fiesta in discovery and marked as “Confidential.” Prior to filing this Declaration, Willis sought Fiesta’s consent to file this document publicly. Consent was denied. For this reason, Willis is submitting a copy of this document to the Court for *in camera* review.

46. Attached as Exhibit 45 are letters dated October 24, 2018 from Thomas Cunningham to Arch Specialty Insurance Company, Allied World Assurance Company (U.S.) Inc., Westport Insurance Company, Indian Harbor Insurance Company, Certain Underwriters at Lloyds, London, Aspen Specialty Insurance Company, and HDI Global Insurance Company that were marked as Exhibit 198 at the deposition of Jack Hook.

47. Exhibit 46 is the Settlement Agreement and Mutual Release that was marked as Exhibit 12 at the deposition of Drew Scielzo. Given the confidential nature of this document, Willis is submitting a copy of this document to the Court for *in camera* review.

48. Attached as Exhibit 47 is an email from James O’Dell to Nancy Collins dated November 1, 2018 and Bates-labelled WTW\_00016299.

49. as Exhibit 48 is an email from Jack Hook to Jeffrey Roberts and Albert Moreno, cc Nancy Collins and Bruce Batzer, dated February 13, 2019 that was marked as Exhibit 199 at the deposition of Jack Hook.

50. Attached as Exhibit 49 are relevant pages from the transcript of the June 29, 2022 deposition of Jack Hook.

51. Attached as Exhibit 50 is a letter from Jack Hook to Blaine Conant dated June 23, 2020 that was marked as Exhibit 74 at the deposition of Jack Hook. This document was produced by Fiesta in discovery and marked as “Confidential.” Prior to filing this Declaration, Willis sought

Fiesta's consent to file this document publicly. Consent was denied. For this reason, Willis is submitting a copy of this document to the Court for *in camera* review.

52. Attached as Exhibit 51 is an email from Jack Hook to Blaine Conant, cc Nancy Collins, dated July 10, 2020 that was marked as Exhibit 201 at the deposition of Jack Hook.

53. Attached as Exhibit 52 are relevant pages from the transcript of the June 23, 2022 deposition of Mark Evans.

54. Attached as Exhibit 53 are relevant pages from the transcript of the June 16, 2022 deposition of William ("Bill") Ashton.

55. Attached as Exhibit 54 are relevant pages from the transcript of the June 10, 2022 deposition of Nancy Collins.

56. Attached as Exhibit 55 is a Certificate of Insurance dated June 6, 2017 and Bates-labelled WTW\_00001535 - WTW\_00001537. A copy of this document was marked as Exhibit 26 at the deposition of Boris Loncarevic.

57. Attached as Exhibit 56 is a print-out from the online Corporation/LLC database for Willis of Illinois, Inc. that is maintained by the Illinois Office of the Secretary of State's and-publicly available at <https://apps.ilsos.gov/corporatellc/CorporateLlcController>.

Signed under the penalties of perjury this 11th day of October, 2022.

/s/ Kyra A. Smerkanich  
Kyra A. Smerkanich